IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.8404 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

YUNUSBHAI KARIMBHAI MUSANI

Appearance:

1. Special Civil Application No. 8404 of 2004

MR. ASHISH M. DAGLI for Petitioner

MR. M.A. KHARADI for Respondent

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 09/02/2005

ORAL JUDGEMENT

1. Rule.

Mr.M.A.Kharadi, learned Advocate, appears and waives service of Rule on behalf of the respondent.

2. The petitioner-Gujarat State Road Transport Corporation has filed this petition being aggrieved of Judgement and Order Award dated 4th March, 2000 passed by

the Industrial Tribunal, Ahmedabad in Complaint (IT) No.301 of 2003 in Reference (IT) No.37 of 2000.

3. Pursuant to Order dated 20th September, 2004 passed by this Court, by which the learned Advocate, Mr.Kharadi, for the respondent-workman, was granted time to take instructions from his client as to whether the respondent-workman is willing to deposit the provident fund amounting to Rs.5,54,715=00, paid to him on 8th January, 2003 by cheque, pursuant to application dated 8th January, 2003 and if yes, then in what time. The matter was on Board on 19th January, 2005, but, as Mr.Kharadi was not able to get the instructions, it was adjourned to 27th January, 2005. Again on 27th January, 2005, for want of instructions on the part of the learned Advocate, Mr.Kharadi, it was adjourned to 31st January, 2005; on 31st January, 2005 to 2nd February, 2005; and, lastly on 2nd February, 2005 to 9th February, 2005.

4. Mr.M.A.Kharadi, learned Advocate appearing for the respondent-workman, on instructions from his client, who is present before the Court, states that his client is not willing to deposit the aforesaid amount of provident fund as it is not possible for him to manage the same.

Mr.Kharadi, learned Advocate, on instructions, further states that his client will submit an application to the authorities to close the chapter and allow him to retire from service with effect from 28th February, 2005 and pay his retiral dues treating 31st December, 2003 as the date of his retirement. Mr.Kharadi requested that the Corporation may be directed to pay all admissible retiral dues of the respondent-workman, treating him to have retired on 31st December, 2003, as early as possible.

5. In view of the above, it is directed that on the respondent-workman submitting an application to the petitioner-Corporation on or before 18th February, 2005, the petitioner-Corporation shall allow him to retire from active duties with effect from 28th February, 2005 and shall see that the respondent-workman is paid all admissible retiral dues, which shall be calculated, treating the respondent-workman to have retired on 31st December, 2003, within three months from the date of receipt of a copy of this order. However, no order is passed for recovery of the wages for the intervening period i.e. from 1st January, 2004 to 28th February, 2005 as the respondent-workman discharged his duties during this period.

The Judgement and Order passed by the Industrial Tribunal in Complaint (IT) No.301 of 2003 in Reference (IT) No.37 of 2000 is quashed and set aside. The petition is disposed of with the aforesaid directions. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)

kamlesh*